

FILED

STEPHEN YAGMAN
723 Ocean Front Walk
Venice, California 90291-3212
(310) 452-3200

2013 JAN 17 AM 11:19

CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

Presented on behalf of plaintiff,
Stephen Yagman

ORIGINAL

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

CV13-00354-PA (EX)

STEPHEN YAGMAN,

No.

Plaintiff,

COMPLAINT

(5 U.S.C. § 552(a)(4)(B); 28 U.S.C.
§1361; 28 U.S.C. §2201; 28 U.S.C.
§1651)

v.

(01-11-13)

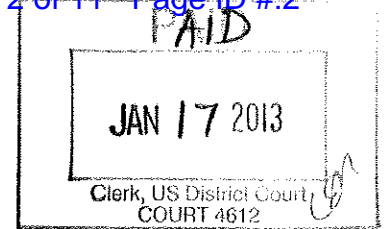
UNITED STATES DEPARTMENT
OF JUSTICE, UNITED STATES
BUREAU OF PRISONS, FEDERAL
BUREAU OF INVESTIGATION,
OFFICE OF INFORMATION
POLICY, UNITED STATES
TREASURY DEPARTMENT, and
INTERNAL REVENUE SERVICE,

Defendants.

Plaintiff makes the following allegations on information and belief in support of his complaint under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, *et seq.*, seeking the production of agency records improperly withheld by defendants, in responses to requests properly made by plaintiff.

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JURISDICTION AND VENUE

1. The federal claims made herein are asserted pursuant to the Freedom of Information Act 5 U.S.C. § 552(a)(4)(B), the Injunction Act (IA), 28 U.S.C. § 1361, the Declaratory Relief Act (DCA), 28 U.S.C. § 2201, and the All Writs Act (AWA) 28 U.S.C. § 1651, and therefore this court has subject matter jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) (FOIA jurisdiction) and 28 U.S.C. § 1331 (federal question jurisdiction).

2. Venue is premised on the plaintiff's residence and principal place of business in the federal Central District of California and is proper in this District under 28 U.S.C. § 552(a)(4)(B).

3. Because defendants have failed to turn over the records sought and have failed to determine the pending appeals in the time set by FOIA, plaintiff is deemed to have exhausted all administrative remedies as to each and now is entitled to appeal directly to the Court to enforce the dictates of FOIA, pursuant to 5 U.S.C. § 552(a)(4)(B).

THE PARTIES

4. Plaintiff is a natural person who resides in this District and whose principal place of business is in this District.

5. Defendants are the United States Department of Justice (DOJ), the federal Bureau of Prisons (BOP), the Federal Bureau of Investigation (FBI), the Treasury Department (TD), and the Internal Revenue Service (IRS) and each is an agency of the federal government who has possession and control of the records sought by plaintiff's FOIA requests.

6. DOJ, BOP, FBI, TD, and IRS each and all are responsible for, respectively, enforcing the law and defending the legal interests of the United States, incarcerating those convicted of federal crimes, investigating federal crimes, administering the federal fisc, and collecting income taxes, and the Office

1 of Information Policy (OIP), a DOJ component entity, is responsible for ensuring
2 the agencies' compliance with FOIA requests.

3 6. Each defendant agency set forth in averment 5 is an agency within the
4 meaning of 5 U.S.C. § 552(f)(1).

5 **FACTS AND ALLEGATIONS COMMON TO EACH COUNT**

6 7. The allegations set forth in each and every averment of this complaint
7 hereby are incorporated by this reference in each and every other averment of this
8 complaint.

9 9. In 2009, 2011, and 2012, plaintiff sought from defendants materials
10 described generally as follows:

11 (BOP and DOJ requests)

12 (1) The names and physical addresses of BOP correctional institutions;

13 (2) The names of the warden, associate warden, medical director and
14 physicians at each institution;

15 (3) The state licensing information for each physician;

16 (4) Statistical information for all BOP facilities related to the provision of
17 non-formulary prescription medication to prisoners;

18 (5) Information regarding *Bivens* actions brought against BOP employees,
19 including: (A) the full caption, including all plaintiffs' and all defendants' names
20 as set forth in the caption; (B) The full name of the court in which it is pending;
21 (C) Its docket or case number; (D) The full name of the judge to whom it is
22 assigned; (E) The complete names of all plaintiffs' lawyers; (F) The complete
23 names of all defendants' lawyers; (G) The name of each constitutional claim
24 made; (H) The disposition of the action, and whether it was settled, dismissed, or
25 summary judgment was granted; (I) Whether the action is on appeal; (K) Any title
26 and case number on appeal; (L) If it was settled, and, if so, for how much?; (M)
27
28

1 Whether there was a verdict or judgment, and if so, in whose favor and for what
2 amount(s), breaking down nominal, compensatory, and punitive damages;

3 (6) Any and all records/materials bearing the name of or having to do with
4 Stephen Yagman;

5 (7) The full names of all persons in BOP custody;

6 (8) The prisoner or BOP number assigned to all persons in BOP custody;

7 (9) The name of the BOP facility at which each person in custody is housed;

8 (10) The mailing address of each person in BOP custody.

9 (DOJ and FBI)

10 (11) All records and/or materials of whatever nature for Stephen Yagman
11 aka Stephen G. Yagman and Steve Yagman, Dec. 19, 1944 to present.

12 (DOJ and OIP request)

13 (12) The settlement agreement located in the U.S. Attorney's Office in Los
14 Angeles between the United States and Ameriprise Financial Services Corp.

15 (DT and IRS request)

16 (13) All records and/or materials of whatever nature for Stephen Yagman
17 aka Stephen G. Yagman and Steve Yagman, Dec. 19, 1944 to present.

18 10. Defendants failed and refused to provide all of the materials requested.

19 11. Defendants each and all as agencies subject to FOIA, 5 U.S.C. § 552(f)
20 must release in response to a FOIA request any disclosable records in their
21 possessions at the time of the requests and provide a lawful reason for withholding
22 any materials as to which it is claiming an exemption under 5 U.S.C. § 552(a)(3).

23 12. On information and belief, defendants have possession of the materials
24 sought.

25 13. Defendants improperly and illegally withheld the materials sought.

26 14. No exemptions are applicable to disclosure.

27
28

1 15. Even if parts of the materials sought properly are subject to exemption,
2 defendants have an obligation to redact non-public portions of the materials and
3 release the portions that are public under FOIA.

4 16. Defendants' failures to provide the materials sought violates FOIA.

5 **COUNT 1**

6 (FOIA)

7 17. Plaintiff is entitled to provision of the subject materials.

8 **COUNT 2**

9 (Declaratory Relief)

10 18. Plaintiff is entitled to a declaratory judgment, pursuant to 28 U.S.C.
11 § 2201, that plaintiff is entitled to provision of the subject materials.

12 **COUNT 3**

13 (Injunction Act)

14 19. Plaintiff is entitled to injunctive relief, pursuant to 28 U.S.C. § 1361,
15 requiring defendants to provide to plaintiff the subject materials.

16 **COUNT 4**

17 (All Writs Act)

18 20. Plaintiff is entitled to injunctive relief, pursuant to 28 U.S.C. § 1651,
19 requiring defendants to provide to plaintiff the subject materials.

20 **REQUEST FOR RELIEF**

21 **WHEREFORE**, plaintiff requests relief against defendants, and each of
22 them, as follows:

- 23 1. Expedited consideration of this complaint, pursuant to 28 U.S.C. §1657;
24 2. Declaration that the materials sought by plaintiff are public under 5
25 U.S.C. § 552 and must be disclosed or, in the alternative, that the court conduct an
26 *in camera* review to determine whether any parts of the materials properly are
27 public under FOIA;
28

6 5. Such other relief as is just and proper.

6

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Percy Anderson and the assigned discovery Magistrate Judge is Charles Eick.

The case number on all documents filed with the Court should read as follows:

CV13- 354 PA (Ex)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

FOR OFFICE USE ONLY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

STEPHEN YAGMAN

Plaintiff(s),

CASE NUMBER:

CV13-00354-PA (EX)
CV-_____

v.

UNITED STATES DEPARTMENT OF JUSTICE,
UNITED STATES BUREAU OF PRISONS, FEDERAL
BUREAU OF INVESTIGATION, OFFICE OF
INFORMATION POLICY, UNITED STATES
TREASURY DEPARTMENT, and INTERNAL
REVENUE SERVICE,

Defendant(s)

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiff's attorney
STEPHEN YAGMAN, whose address is:

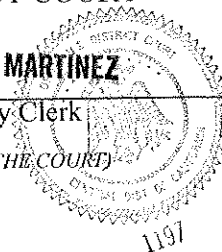
723 Ocean Front Walk
Venice, CA 90291-3270
(310) 452-3200

an answer to the ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim
which is herewith served upon you within 60 days after service of this Summons upon you,
exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for
the relief demanded in the complaint.

CLERK, U. S. DISTRICT COURT

Date: January 17 2013

By: ANN MARTINEZ
Deputy Clerk
(SEAL OF THE COURT)



1197

FOR OFFICE USE ONLY
SUMMONS

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself ☒)

STEPHEN YAGMAN

(b) County Of Residence Of First Listed Plaintiff (Except In U.S. Plaintiff Cases) :

(c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Stephen Yagman
723 Ocean Front Walk
Venice, CA 90291-3212
(310) 452-3200

DEFENDANTS

UNITED STATES DEPARTMENT OF JUSTICE

County Of Residence Of First Listed Defendant (In U.S. Plaintiff Cases Only):

ATTORNEYS (If Known)

U.S. ATTORNEY
300 N. Los Angeles St.
L.A., CA 90012

II. BASIS OF JURISDICTION (Place an X in one box only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties In Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN (Place an X in one box only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☐ Yes ☐ No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23 : ☐ Yes ☒ No

MONEY DEMANDED IN COMPLAINT \$ NONE

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Violation of due process, fraud, deceit, fraudulent transfer, and federal civil RICO

VII. NATURE OF SUIT (Place an X in one box only)

OTHER STATUTES	CONTRACT	TORTS PERSONAL INJURY	TORTS PERSONAL PROPERTY	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 Habeas Corpus	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 General	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc	<input type="checkbox"/> 140 Negotiable Instru ment	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 850 Securities/Commodities /Exchange	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 443 Housing/Acco- modations	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 891 Agricultural Act	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 861 HIA (1395ff) (405(g))
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 220 Foreclosure			<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 864 SSID Title XVI
<input checked="" type="checkbox"/> 895 Freedom of Information Act	<input type="checkbox"/> 230 Rent Lease & Ejectment			<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 240 Torts to Land				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 290 All Other Real Property				

VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): not applicable

CV13-00354

FOR OFFICE USE ONLY: Case Number :

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

AFTER COMPLETING THE FRONT SIDE OF FORM JS-44C, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case :

- (Check all boxes that apply) ☐ A. Appear to arise from the same or substantially identical transactions, happenings, or events;
☐ B. Involve the same or substantially the same parties or property;
☐ C. Involve the same patent, trademark or copyright;
☐ D. Call for determination of the same or substantially identical questions of law, or
☐ E. Likely for other reasons may entail unnecessary duplication of labor if heard by different judges.

IX. VENUE: List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)
☐ Check here if the U.S. government, its agencies or employees is a named plaintiff.

Los Angeles

List the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).

☒ Check here if the U.S. government, its agencies or employees is a named defendant.

Los Angeles, Washington, D.C.

List the California County, or State if other than California, in which **EACH** claim arose. (Use an additional sheet if necessary)

NOTE: In land condemnation cases, use the location of the tract of land involved.

Los Angeles

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Stephan Yagman

Date January 11, 2013

NOTICE TO COUNSEL/PARTIES: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3.3 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))